

REMARKS:

Claims 17 through 22 have been cancelled so that the objections thereto are rendered moot. Minor amendments have been made in the remaining claims to overcome the objections raised by the Examiner under 35 U.S.C. 112.

The indication of allowance of Claim 9 is appreciated and minor amendments have been made in Claim 9 to correct a number of very minor punctuation points which were not noted by the Examiner. No other amendments have been in Claim 9 so that Claim 9 should remain in good order for allowance.

The Examiner has rejected Claim 1 under 35 U.S.C. 102 in view of McCrery. Claim 1 has been amended so as to more clearly point out the structure of the device so that the distinctions from McCrery have been made more clear. It is believed that Claim 1 is now clearly distinguished from McCrery and reconsideration of this claim is respectfully requested.

In particular McCrery discloses a hood device which is on parallel links allowing it to float upwardly and downwardly and also forwardly. The hood has a height in its rest position which is lower than the back of the hog so as the hog moves forwardly the hood rides on the back of the hog allowing the tattoo device to operate on the hog. The hog however is not in any way confined at this time and is moving forward at a rate selected by the hog. Thus the timing is uncontrolled and an animal moving very quickly may avoid the tattoo device.

The Examiner has submitted an argument that the hood forms a gate assembly.

Claim 1 has been amended so as to make clear the construction of the gate assembly which is intended in this application which is clearly different from the hood of McCrery. Thus Claim 1 now states that the gate is movable between open and closed positions and that in the closed position the gate bars movement of the animal. This is clearly not the case with McCrery.

Yet further Claim 1 now states that the gate is operated by the control device so as to be moved between the closed and opened positions. Again this is clearly not the position in McCrery where the hood merely rides on the animal and is thus dependent upon the position and movement of the animal so that there is no control unit which actuates the movement.

Yet further Claim 1 states that the control unit actuates both the tattoo device and the gate assembly so that the tattoo device and the gate assembly are controlled so that the animal is released when it has been tattooed. Again this is not the case with McCrery where the animal could possibly avoid the tattoo device by ducking and weaving.

It is submitted therefore that Claim 1 is clearly distinguished from the prior art of McCrery and should therefore be allowed.

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Further and favourable reconsideration of this application is respectfully requested.

Respectfully submitted

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CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) 872-9306, on November 23, 2004

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